

REMARKS

Claims 44, 45, 47-59, 80 and 81 are pending in this Application. Claim 44 is the sole independent claim. By this Amendment, claims 1-43, 46, 60-79, and 82-104 are cancelled without prejudice or disclaimer. Claim 44 is amended only to correct a minor informality.

Specification

The specification is objected to for allegedly failing to provide proper antecedent basis for claimed subject matter in claims 60 and 62 expressed in “means-plus-function” terms.

37 CFR §1.75(d) requires that the terms or phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms may be ascertainable by reference to the description. Despite the previous indication by Applicant identifying support for the terms in claims 60 and 62 in paragraphs [0047] and [0048] (see, for example, the description in the specification of the device 6 being adapted to check on the validity of the software license, in any of the ways previously listed and the device 6 being adapted to locally grant a license for the number of prepaid uses of the software on the machine) the Examiner again objects to the claims.

Although the disclosure provides clear support for the claim terms, the claims are cancelled in an effort to expedite prosecution of the application.

Allowable Subject Matter

Claims 44, 45, 47-59, 80 and 81 are allowable over the prior art. Because the objection to independent claim 44 is addressed by the insertion of the word “the” prior to the word “date”, all of the pending claims are in condition for allowance.

Claim Objections

Claim 44 is objected to because of minor informalities. The claim is amended to address the objection.

Rejections under 35 U.S.C. §112

Claims 30-43, 78, 79, 83-90, and 104 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

In rejecting the claims it is admitted in the Office Action that Applicant has support in the specification for “protect against any unauthorized change of any information” but rejects the claims for failing to have support for “preventing unauthorized change of information relating to the granting of the license.”

The test for written description is “whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.”¹ The Court in *Ariad* explained that to demonstrate possession “the specification must describe an invention understandable to th[e] skilled artisan and show that the inventor actually invented the invention claimed.”

Applicant submits that from the disclosure of “protect against any unauthorized change of any information” one of skill in the art would readily recognize that the inventor had possession of “preventing unauthorized change of information relating to the granting of the license.” In other words, protecting against any unauthorized change would prevent unauthorized change. However, in an effort to expedite prosecution of the application, the claims are cancelled without prejudice or disclaimer.

¹ *Ariad Pharmaceuticals Inc. v. Eli Lilly & Co.*, No. 2008-1248 (Fed. Cir. 2010)(en banc)

Claims 60, 62-74, and 82 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

“The requirement to 'distinctly' claim means that the claim must have a meaning discernible to one of ordinary skill in the art when construed according to correct principles. Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite.”²

As discussed above regarding the objections to the claims, the disclosure provides clear support for the claim terms such that one of ordinary skill in the art could readily discern the meaning of the terms. However, in an effort to expedite prosecution of the application, the claims are cancelled without prejudice or disclaimer.

Rejections under 35 U.S.C. §103

Claims 1-3, 5-14, 16-18, 20-43, 60, 62-79, 82-90, 103 and 104 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication 2004/0205261 to Osada (“Osada”) in view of U.S. Patent 6,708,157 to Stefik et al. (“Stefik”) in further view of U.S. Patent 6,816,842 to Singh et al. (“Singh”). Claims 30-43, 78, 79, 83-90, and 103 are additionally rejected under 35 U.S.C. §103(a) as being unpatentable over Osada in view of Stefik. As the claims are cancelled, the rejection is moot.

² See *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366, 71 USPQ2d 1081, 1089 (Fed. Cir. 2004)

Rejections under 35 U.S.C. §112, Sixth Paragraph

The Examiner concludes that six (6) phrases in claim 60 invoke 35 U.S.C. §112, sixth paragraph. As claim 60 is cancelled, the rejection is moot.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



John W. Fitzpatrick, Reg. No. 41,018

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

DJD/JWF:eaf